

# The CURE

## Contract User's Resource for Excellence

*The "CURE" is a quarterly newsletter of the State Controller's Office*

Volume 7, Issue 3

August 2001

## News From The SCO

### A State Controller's Office Update

*By John Ivy, SCO*

#### ⇒ CCIT Meeting

The August CCIT Meeting will be held on Wednesday, August 15th from 9:00 a.m. to noon in Building 100 at Camp George West. Camp George West, it is located just East of Golden on Old Golden Road. The address is 15055 So. Golden Road. If you have questions about the meeting or the location, please call the CCU.

An agenda for the upcoming meeting is included on the last page of this issue of the CURE.

#### ⇒ State Fiscal Rule Hearing Scheduled

A Rule Making Hearing to discuss proposed changes in the State Fiscal Rules has been tentatively scheduled for Wednesday, October 10, 2001 at 1:00 p.m. in SCO Conference Room B. Changes are being drafted and when the discussion draft is finalized, it will be distributed to all recipients on the SCO CCIT e-mail list for comments. It is our goal to solicit comments well before the scheduled hearing where a final draft can be prepared for the hearing and, based on additional comments received, adopted with as few changes as possible at the hearing.

#### ⇒ Deputy State Controller, Retiring August 31

Dennis Wolfard, who has been Deputy State Controller for the past 10 years announced that he will retire from state government at the end of August. The SCO is hosting an Open House, complete with refreshment on Friday, August 31, in the SCO Conference Room B from 2-4:00 p.m. in order to provide a place and time for those wishing to stop by and bid Dennis farewell. There will be a card to sign and anyone wanting to toast or roast Dennis is invited to participate in the festivities. Dennis' career with state government spans almost 30 years. He began his career with the Colorado Judicial Department, as Director of Audits. Dur-

ing his tenure with the State, Dennis has served as Controller of the Judicial Department, a Field Accounting Specialists in the SCO, Director of Administration for the Colorado Department of Agriculture, and Deputy State Controller. Please help us spread the word of his retirement and join us on August 31st to bid Dennis a fond farewell and good luck in the years to come.

## Central Approvers Names and Numbers

NAME	PHONE #	FAX #
<b><u>General Support Services – Department of Personnel</u></b>		
<b>State Controller's Office</b>		
<b><u>Central Contract Unit:</u></b>	<b><u>Phone Number</u></b>	<b><u>Fax Number</u></b>
Phil Holtmann	303-866-3809	303-866-3569
Robert (Bob) Bowers	303-866-3820	303-866-3569
Yvonne Anderson	303-866-2862	303-866-3569
<b><u>Routing, Distribution and E-mail Updates:</u></b>		
Kevin Cruise	303-866-2127	303-866-3569
<b><u>Fiscal Rule Waivers and Statutory Violations:</u></b>		
John Ivy	303-866-3765	303-866-3569
<b>Human Resource Services</b>		
<b><u>Personal Services Review Program:</u></b>		
Joi Simpson	303-866-5496	303-866-2458
<b>State Buildings and Real Estate Programs:</b>		
Carol Lieber (SBREP)	303-866-3158	303-894-7478
Donna Barr (REP)	303-866-4564	303-866-2201
Mike Karbach (REP)	303-866-4759	303-866-2201
Bob Marshall (REP)	303-866-2204	303-866-4367
<b>State Purchasing:</b>		
Kay Kishline	303-866-6181	303-894-7444
Monica Rahman	303-866-6155	303-894-7440
<b><u>Office of the Attorney General</u></b>		
David Kaye	303-866-5142	303-866-4139

**NOTE:** You may e-mail any of the above by using the following format: **firstname.lastname@state.co.us**

# An Update **Personal Services Review Program**

*By Joi Simpson, GSS/HRS*

## **Personal Services Annual Report**

The Personal Services annual report will be due to the Department of Personnel September 30, 2001. Notices along with reporting instructions will be sent out to agencies by the second week of August.

In May, a task force was gathered to identify a more efficient method for assembling personal services information for this report. The task force is working with COFRS on a project that will allow agencies to request a personal services report for dollars spent through the COFRS system. Object codes have been identified and matched with the contract type categories A1-A8. Using this reporting method, agencies will receive a COFRS report via email that can be downloaded into an Excel spreadsheet. Agency staff will need to verify the information; however, this COFRS method should eliminate duplicative data entry systems. Training will need to take place at the agency level to ensure the proper object codes are being entered into COFRS. This will also reduce the time needed later to verify the information being reported through COFRS.

Once COFRS accomplishes the programming, we will determine whether or not all state agencies can utilize this option for the fiscal year 2000-2001 report, or if a few state agencies will pilot this process this year.

Because higher education has unique accounting systems, we will need to work with individual institutions to determine if there are ways to streamline the reporting process. If any higher education institution would like assistance, please contact Joi Simpson, Program Manager at 303-866-5496 or email [joi.simpson@state.co.us](mailto:joi.simpson@state.co.us).

As more information becomes available, agencies will be notified via email.

## **Rules Update**

A draft of the Director's Administrative Procedures, Personal Services Contracts: Chapter 10, was re-

leased the beginning of July. Comments were received on the proposed changes and a summary of these comments will be available on the Personal Services Web-site, [http://www.state.co.us/gov\\_dir/gss/hr/contracts/index.htm](http://www.state.co.us/gov_dir/gss/hr/contracts/index.htm), in the near future. An informal briefing was given on July 24 to HR administrators, purchasing and contracting personnel. Most of the comments received, support the proposed changes; however, there are some areas that may need further clarification.

The entire Chapter 10 will be repealed and reenacted. Because of this, it can be difficult to determine what has been changed and what will remain the same. Therefore, we are working on a "cross walk" that will identify areas that have been dramatically changed. This will be made available prior to the hearing, scheduled for October 24, 2001, at a time and place to be determined. Notice will be filed with the Secretary of State's office by the end of July.

If there are further comments or questions regarding the proposed changes to the Director's Administrative Procedures, please contact Joi Simpson.

## **NOTICE**

The administrative rule making hearing for the Personal Services Review Program scheduled for September 6th has been rescheduled for October 24, 2001. Official notice of time and place will be sent in the very near future.

## **E-MAIL ADDRESS CHANGES**

To make sure you do not miss an issue of the CURE or other important state contract information be sure that you keep your e-mail address current by sending changes to Kevin in the SCO CCU at:

[kevin.cruise@state.co.us](mailto:kevin.cruise@state.co.us)

## State Contract Amendments and Modifications

*By Phil Holtmann, SCO*

By statute, the State Controller is the only individual authorized to designate the form of commitment vouchers. This authority has not been delegated to another individual in the SCO or any other state agency. The State Controller has designated the form of contract modification documents that may be used in state contracts by the issuance of a policy in January 1997. This policy contains instructions and set the parameters for the use of options, change orders, task orders, and funding letters. This policy required agencies to include specific language in certain types of state contracts and attach a sample of the modification document as an exhibit to the contract. After the State Controller or designee has executed the contract, the agency could use the modification or change tool without the benefit of a legal review by the Attorney General's Office as is normally required on all contract amendments.

These contracting tools were developed to be used with specific types of contracts and scopes of work. They are not universal and should not be included in all contracts. These modification tools were developed to be used for very specific purposes and therefore contain very specific language. These tools were not meant to be combined with other modification tools or to be used for other than their intended purpose.

Recently, the SCO has received several modification documents in which agencies added language changing terms and conditions outside the intended use of the modification document. These unauthorized changes to the modification document do not comply with the above referenced policy. Combining two or more modification documents into one document also does not comply with the above referenced policy. All of these creative uses of the modification documents have been rejected by the SCO. If an agency needs to amend terms and conditions in a contract, as well as, exercise a renewal option then the agency should consider processing a formal amendment. This will eliminate the need to route two documents for approval. When the standard language in a modification document is changed, the resulting form is no longer an authorized form and thus legal review is required.

Please try to use these modification or change tools for their intended purpose and process contract amendments when necessary. The contract modification policy is included in the Contract Procedure and Management Manual as are the instructions for and required format of a contract amendment (Page 6-97).

## State Contract Awarded Real Estate Brokerage Firms.

*By Donna Barr, SBREP*

For a number of years the State of Colorado has been contracting with real estate brokerage firms for exclusive representation of the state in leasing matters. In May 2001, three-year contracts were awarded to **CPC Corporate Planners and Coordinators, Inc.** for the Denver metro area and to **Grubb & Ellis/Quantum Commercial Group** for the Colorado Springs/Pueblo area.

State Buildings and Real Estate Programs personnel were assisted in the RFP review process by an excellent panel of representatives from state agencies and institutions: Mollie Anchustegui, CUHSC; Lisa Eze, DOLE; Roger Friedrich, DHS; Rick Grice, Governor's Office of Energy Conservation; Pam Hennessy, then of DORA now Judicial; Jim Lawser, CDOT; Ken Reynolds, Alamosa Vocational Rehabilitation; Rick Malinowski, GSS/DOP; Peter Van Ronk and Thirza Kennedy, SPO and Rod Wolthoff, AGO.

Eight responses to the RFP were received by the state for the two regions combined. The panel spent numerous hours reviewing the information submitted prior to making its decision.

*Concluded on page 4*

### Key to CURE Abbreviations

Attorney General's Office	AGO
Central Approvers Task Force	CATF
Central Contract Unit	CCU
Colorado Contract Improvement Team	CCIT
Division of Finance and Procurement	DFP
General Support Services	GSS
State Buildings and Real Estate Programs	SBREP
State Controller's Office	SCO
State Purchasing Office	SPO

## **Leases or Lease Extensions How to Avoid Statutory Violations When Using The Holdover Clause**

*By John Ivy, SCO*

In a simplified example consider an existing annual (state fiscal year) lease rate of \$1200, paid monthly at \$100 per month with a holdover clause. The holdover clause allows month-to-month occupancy at the same rate (\$100 per month) until a new lease extension can be negotiated. The lease extension is finalized and routed for approval in early August, after the August payment of \$100 has been made. In this example, assume that the lease is not executed in a timely manner and the holdover clause is used for two months, July and August. During these two months the lessor would have been paid a total of \$200, \$100 for July and \$100 for August, under the holdover clause in the existing lease. The lease extension would be for a 10-month period, September 1 to June 30, at \$200 per month for a total of \$2000. The total annual lease, under this example, would be \$2200.

If however, the new lease negotiations extend the lease for a one year period at a new annual lease rate of \$2400, paid monthly at \$200 per month, a problem could exist that would cause the lease to be in violation of CRS 24-30-202 (1) and (3). Because the existing lease was in holdover for two months, the effective date of the lease extension is September 1<sup>st</sup>. Since the lease payment on the new lease extension is greater than the lease payment on the existing lease or the lease payment during the holdover period, you can avoid a statutory violation by following one of two techniques presented below.

1. Increase the new lease payment over the period of time the new lease is in effect in order to make up the difference in the annual rent negotiated over the term of the lease. Remember the new term is less than 12 months. If it were 12 months, the existing lease would not be in holdover.
2. Add a "bonus" to be paid by the state in the terms and conditions of the lease extension. The bonus is justified because the existing lease was in holdover. The bonus may be paid at the time the lease extension is fully executed or with the first lease payment, depending on how the terms and conditions are worded in the new lease extension.

Under #1 above, the lease extension would be for 10 months at \$220 per month for a total of \$2200. By adding in the \$200 already paid during holdover, the lessor would still receive the full \$2400 agreed upon. The calculation is based on 10 months at \$220 per month (\$2200), plus the \$200 already paid (\$100 for July and \$100 for August) during the period the lease was in holdover.

Under #2 above, the lease extension would be for 10 months at \$200 per month for a total of \$2000. By adding in the \$200 already paid during holdover and a \$200 penalty, the lessor would still receive the full \$2400 agreed upon during negotiations. The \$200 penalty would be included in the terms and conditions of the new lease extension and paid either upon full execution of the lease extension or with the first payment made under the new lease. The timing of the penalty payment must be specified in the new lease extension.

Please note that in both of the above techniques that the new lease extension is for only 10 months, the holdover was paid based on the terms and conditions of the existing lease, and that the lessor received the full value of the negotiated new lease extension after it was fully executed. If you have questions concerning leases and lease extensions, please give SBREP or the CCU a call.

*Continued from page 3*

### **Real Estate Brokerage Firms**

The contract with CPC renews the state's long-term partnership with that firm. Grubb & Ellis will replace the former affiliation with Cheyenne Springs Realty. Both contracts are effective as of July 1, 2001.

Unless exempted by the Real Estate Program, state agencies and institutions must utilize the services of these brokers when leasing property in one of these two regions. Region One includes the Denver metro area, consisting of the City and County of Denver, City and County of Broomfield, Adams, Arapahoe, Douglas and Jefferson Counties. Region Two includes El Paso and Pueblo Counties. Compensation to the brokers is paid through a commission split with the landlord's broker.

If anyone has questions regarding the state's brokerage contracts or procedures to be followed, contact Mike Karbach or Donna Barr with State Buildings and Real Estate Programs.

## Contract Processing Statistics for FY00-01 A Summary

The State Contract Unit in the SCO annually prepares a summary of contract processing statistics. These summary statistics are derived from information maintained in the CLIN and CLI2 tables on the Colorado Financial Reporting System (COFRS). Since not all agencies use COFRS, not all contracts are included on this report. In addition, there are some state agencies, and most of the institutions of higher education, that have been delegated state controller signature authority with respect to state contracts and their statistics are not included. If all state agencies and institutions would use the CLIN as their contract log, then the statistics could be published on a periodic basis and used to identify those agencies that need additional contract training or assistance from the State Contract Unit to improve their contracting process. Without all agencies using CLIN and not all contracts coming through the SCO, it would be unfair to some state agencies to simply publish the summary and expose their problems for all to see.

The summary sheets indicate that during FY00-01 the State Contract Unit processed 3,555 contracts in total, which were received from 90 different state agencies. Of the contracts processed last fiscal year, 1028 contained errors or were rejected. This represents a 29% contract error rate, which is an increase in the error rate percentage from FY 99/00 of 20%. When a contract is rejected, the agency is contacted to resolve the contract issues. Often the contract must be returned to the agency for correction. This unnecessarily delays the contract's execution and adds to the total contract processing time. Rejected contracts result in additional work not only for the agency's contracting and accounting staffs, but also the Central Contract Approvers. Error rates for state agencies and institutions ranged from 0% to 100%. The CCU will contact state agencies with unacceptable contract error rates to determine the reasons for the errors and to develop an agreeable solution to the problem.

In addition to the contract error rate, the number of contracts requiring a "walk through" was also noted. In FY00-01 there were 134 state contracts walked through the review and approval process. This represents 4% of the total, which is a decrease of over 50% from the previous fiscal year. This indicated that state agencies are planning ahead in order to prevent having to walk a contract through the approval process. Please note that this is a step in the right direction. The walk through process was created to assist state agencies and institutions in quickly reviewing and approving their contracts when time was of the essence. The numbers indicate that this process is still needed, but is being used with more discretion by state agencies. We applaud everyone's efforts to help maintain this number at a manageable level.

The following table summarizes and illustrates the SCO contract processing statistics for the past three fiscal years.

<u>Fiscal Year</u>	<u>Total Contracts</u>	<u>Contract with Errors</u>	<u>Walk Through</u>
FY00-01	3,555	1,028 (28.9%)	134 (3.8%)
FY99-00	3,966	780 (19.7%)	319 (8.0%)
FY98-99	3,663	666 (18.2%)	204 (5.6%)

It is important to note that the figures on the above table are somewhat skewed because they reflect not only a change in the individuals conducting the contract review, but also contain contracts from non-delegated state agencies that are in violation of CRS 24-30-202 (2) and (3), and by definition, are contracts with errors. Also note, that the number of walk through contracts may have been reduced because of a better overall contract turnaround time by the CCU.

Let's all work together this fiscal year and see if we can improve the error rate percentage to a more realistic and acceptable level. Should you have questions or if you would like to know your agencies totals, please give Phil Holtmann a call at 303-866-3809 or e-mail him at [phil.holtmann@state.co.us](mailto:phil.holtmann@state.co.us).

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## CCIT Meeting AGENDA



### CCIT Meeting

Wednesday, May 16, 2001

Camp George West – Golden, Colorado – Building 100

#### Agenda

9:00-9:05	Welcome	Phil Holtmann
9:05-9:45	Personal Services Update	Joi Simpson
9:45-10:00	Training Update	Yvonne Anderson
10:00-10:15	<b>BREAK</b>	All
10:15-10:45	Contract Modifications	Phil Holtmann
10:45-11:00	State Fiscal Rule Update	Phil Holtmann
11:00-11:30	SCAT Committee Reports	SCAT
11:30-12:00	Questions	Phil Holtmann

### On the World Wide Web at :

[www.sco.state.co.us/](http://www.sco.state.co.us/)

CONTRACT PROCEDURES AND MANAGEMENT  
MANUAL  
[contract/contract.htm](http://www.sco.state.co.us/contract/contract.htm)

PERSONAL SERVICES REVIEW PROGRAM  
AND RELATED FORMS  
[private/private.htm](http://www.sco.state.co.us/private/private.htm)

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